REMARKS/ARGUMENTS

Claims 58-62 were pending in this application.

Applicants note that per Examiner's request, the title of the present application was changed in the response to the Office Action filed on November 29, 2004. However, the instant final Office Action does not reflect the new title. Accordingly, Applicants respectfully request that the new title be made of record in the above-identified application.

Further, Applicants note that an Amendment under 37 C.F.R. §1.48(b) to correct the inventorship in the present application was also filed on November 29, 2004. However, the instant Final Office Action does not reflect the change in the inventorship. Accordingly, Applicants respectfully request that the Amendment under 37 C.F.R. §1.48(b) to correct the inventorship in the present application be made of record in the above-identified application.

Applicants note and thank the Examiner for withdrawal of previous objections and rejection under 35 U.S.C. §112, second paragraph.

The remaining rejection of Claims 58-62 under 35 U.S.C. §102 is addressed below.

Priority

Applicants note that the effective filing date of the present application is March 8, 1999.

Utility

Applicants note that utility is established based on Example 109, Ability of PRO Polypeptides to Inhibit Vascular Endothelial Growth Factor (VEGF) Stimulated Proliferation of Endothelial Cell Growth (Assay 9).

Claim Rejections – 35 U.S.C. §102

Claims 58-62 remain rejected under 35 U.S.C. 102(e) as being anticipated by Ford *et al.*, U.S. Patent No. 6,392,018, filed February 12, 1999 and issued May 21, 2002.

In particular, the Examiner alleges that Declaration filed on November 29, 2004 is not persuasive because it is unexecuted.

Applicants respectfully submit that signed Declarations under 37 C.F.R. §1.131 by Dr. Ferrara, Dr. Goddard, Dr. Godowski, Dr. Gurney and Dr. Wood were submitted with a Supplemental Response to Office Action filed on February 10, 2005, copies of which are

enclosed herewith for the Examiner's review. The consideration of the signed Declarations is respectfully requested.

Applicants note that the Supplemental Response along with the executed Declarations filed on February 10, 2005 are clearly of record as shown in the Patent Application Information Retrieval (PAIR) system on the USPTO website.

As stated in the Declaration, Applicants had obtained PRO320 polypeptide and had examined the effect of this polypeptide on the endothelial cell proliferation in the United States prior to February 12, 1999. Accordingly, the Declaration clearly shows that the invention claimed in the present application was conceived and reduced to practice prior to February 12, 1999. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the present rejection.

CONCLUSION

The present application is believed to be in *prima facie* condition for allowance, and an early action to that effect is respectfully solicited. Should there be any further issues outstanding, the Examiner is invited to contact the undersigned attorney at the telephone number shown below.

Please charge any additional fees, including fees for additional extension of time, or credit overpayment to Deposit Account No. **08-1641** (referencing Attorney's Docket No. **39780-2630 P1C6**)

Respectfully submitted,

Date: April 21, 2005

By: _____
Anna L. Barry (Reg. No. 51,436)

HELLER EHRMAN LLP
275 Middlefield Road
Menlo Park, California 94025-3506
Telephone: (650) 324-7000
Facsimile: (650) 324-0638
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	)	Examiner: Turner, Sharon L.
Avi J. ASHKENAZI, et al.	)	Art Unit: 1647
Application Serial No. 09/978,193	)	Confirmation No: 4687
Filed: October 15, 2001	)	Attorney's Docket No. 39780-2630 P1C6
For: **SECRETED AND TRANSMEMBRANE POLYPEPTIDES AND NUCLEIC ACIDS ENCODING THE SAME**	)	**Customer No. 35489**

DECLARATION OF NAPOLEONE FERRARA, Ph.D., AUDREY GODDARD, Ph.D., PAUL J. GODOWSKI, Ph.D., AUSTIN GURNEY, Ph.D., AND WILLIAM I. WOOD, Ph.D. UNDER 37 C.F.R. §1.131

MAIL STOP AMENDMENT
Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

We, Napoleone Ferrara, Ph.D., Audrey Goddard, Ph.D., Paul J. Godowski, Ph.D., Austin Gurney, Ph.D., and William I. Wood, Ph.D. declare and say as follows:

1. We are the inventors of the above-identified application.

2. We have read and understood the claims pending in this application, and are aware that the claims have been rejected as anticipated by Ford *et al.*, U.S. Patent No. 6,392,018, filed February 12, 1999 and issued May 21, 2002.

3. We conceived and reduced to practice the invention claimed in the above-identified application in the United States prior to February 12, 1999.

4. At the time the present invention was made, one of the inventors, Napoleone Ferrara, Ph.D., was, as still is, responsible for overseeing the testing of novel polypeptides, including the polypeptide designated PRO320, in endothelial cell proliferation assay (Assay #9, Example 109). This assay is used to find agents that are capable of inhibiting proliferation of endothelial cells.

5. In this assay, bovine adrenal cortical capillary endothelial (ACE) cells (from primary culture, maximum 12-14 passages) were plated on 96 well plates at a density of 500 CELLS/WELL per 100 L in low glucose DMEM, 10% calf serum. 2 mM glutamine, lx pen/strept and fungizone, supplemented with 3 ng/mL VEGF. Controls were plated the same way but some did not include VEGF. A test sample of the PRO polypeptide of interest was added in a 100 111 volume for a 200 UL FINAL VOLUME. Cells were incubated for 6-7 days at 37°C. The media was aspirated and the cells washed lx with PBS. An acid phosphatase reaction mixture (100 YL, 0. IM sodium acetate, pH 5.5,0.1 % TRITON-100,10 mM p-nitrophenyl phosphate) was added. After incubation for 2 hours at 37°C, the reaction was stopped by addition of 10 JAL IN NaOH. OD was measured on microtiter plate reader at 405 nm. Controls were no cells, cells alone, cells + FGF (5 NG/ML), cells + VEGF (3 NG/ML), cells + VEGF (3 ng/ml) + TGF-ß (1 ng/ml), and cells + VEGF (3ng/mL) + LIF (5 NG/ML). (TGF-P at a I ng/ml concentration is known to block 70-90% of VEGF stimulated cell proliferation.) The results were assessed by calculating the percentage inhibition of VEGF (3 ng/ml) stimulated cells proliferation, determined by measuring acid phosphatase activity at OD405 NM. (1) relative to cells without stimulation, and (2) relative to the reference TGF-ß inhibition of VEGF stimulated activity. The results are indicative of the utility of the PRO polypeptides in cancer therapy and specifically in inhibiting tumor angiogenesis.

6. Copies of pages from laboratory notebook showing the positive results for the PRO320 polypeptide (SEQ ID NO:140), identified by Pin number P288-1, in Assay #9 are attached to this declaration (with dates redacted) as Exhibit A. These experiments were performed and the results were obtained prior to February 12, 1999.

7. Exhibit A clearly shows that the polypeptide designated PRO320 was tested, and its ability to inhibit the proliferation of endothelial cells was determined prior to February 12, 1999.

8. We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information or belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

Napoleone Ferrara	Date 1/25/05
Audrey Goddard	Date Jan. 3/05
Paul J. Godowski	Date
Austin Gurney	Date
William Wood, Ph.D.	Date

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5. In this assay, bovine adrenal cortical capillary endothelial (ACE) cells (from primary culture, maximum 12-14 passages) were plated on 96 well plates at a density of 500 CELLS/WELL per 100 L in low glucose DMEM, 10% calf serum. 2 mM glutamine, lx pen/strept and fungizone, supplemented with 3 ng/mL VEGF. Controls were plated the same way but some did not include VEGF. A test sample of the PRO polypeptide of interest was added in a 100 111 volume for a 200 UL FINAL VOLUME. Cells were incubated for 6-7 days at 37°C. The media was aspirated and the cells washed lx with PBS. An acid phosphatase reaction mixture (100 YL, 0. IM sodium acetate, pH 5.5,0.1 % TRITON-100,10 mM p-nitrophenyl phosphate) was added. After incubation for 2 hours at 37°C, the reaction was stopped by addition of 10 JAL IN NaOH. OD was measured on microtiter plate reader at 405 nm. Controls were no cells, cells alone, cells + FGF (5 NG/ML), cells + VEGF (3 NG/ML), cells + VEGF (3 ng/ml) + TGF-ß (1 ng/ml), and cells + VEGF (3ng/mL) + LIF (5 NG/ML). (TGF-P at a I ng/ml concentration is known to block 70-90% of VEGF stimulated cell proliferation.) The results were assessed by calculating the percentage inhibition of VEGF (3 ng/ml) stimulated cells proliferation, determined by measuring acid phosphatase activity at OD405 NM. (1) relative to cells without stimulation, and (2) relative to the reference TGF-ß inhibition of VEGF stimulated activity. The results are indicative of the utility of the PRO polypeptides in cancer therapy and specifically in inhibiting tumor angiogenesis.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	)	Examiner: Turner, Sharon L.
Avi J. ASHKENAZI, et al.	)	Art Unit: 1647
Application Serial No. 09/978,193	)	Confirmation No: 4687
Filed: October 15, 2001	)	Attorney's Docket No. 39780-2630 P1C6
For: **SECRETED AND TRANSMEMBRANE POLYPEPTIDES AND NUCLEIC ACIDS ENCODING THE SAME**	)	**Customer No. 35489**

DECLARATION OF NAPOLEONE FERRARA, Ph.D., AUDREY GODDARD, Ph.D., PAUL J. GODOWSKI, Ph.D., AUSTIN GURNEY, Ph.D., AND WILLIAM I. WOOD, Ph.D. UNDER 37 C.F.R. §1.131

MAIL STOP AMENDMENT
Commissioner for Patents
Washington, D.C. 20231

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Napoleone Ferrara	Date
A. Goddard	Jan. 3/05
Audrey Goddard	Date
Paul J. Godowski	Date
Austin Gurney	Date
William Wood, Ph.D.	Date

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Avi J. ASHKENAZI, et al.	)	Art Unit: 1647
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Napoleone Ferrara	Date
Audrey Goddard	Jan. 3/05 Date
Paul J. Godowski	1/25/05 Date
Austin Gurney	Date
William Wood, Ph.D.	Date

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	)	Examiner: Turner, Sharon L.
Avi J. ASHKENAZI, et al.	)	Art Unit: 1647
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Napoleone Ferrara	Date
Audrey Goddard	Date
Paul J. Godowski	Date
Austin Gurney	Date 7/1/05
William Wood, Ph.D.	Date

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	)	Examiner: Turner, Sharon L.
Avi J. ASHKENAZI, et al.	)	Art Unit: 1647
Application Serial No. 09/978,193	)	Confirmation No: 4687
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Napoleone Ferrara	Date
A. Goddard	Jan. 3/05
Audrey Goddard	Date
Paul J. Godowski	Date
Austin Gurney	Date
William A. Wood	1/26/05
William Wood, Ph.D.	Date

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